

Washington State Behavioral Health Workforce *Policy Recommendations – Straw Proposals*

Topic V: Background Checks

Proposal 5.1: Conduct an evidence-based review of the Department of Social and Health Services (DSHS) Secretary's Disqualifying List of Crimes & Negative Actions.

- **Policy Action:** Use an evidence-based risk assessment framework to review and potentially amend the DSHS Secretary's Disqualifying List of Crimes & Negative Actions, with an eye towards: optimizing reduction of risk to patients; reducing opportunities for direct or disparate impact discrimination against legally protected groups; and improving opportunities for lawful work and income among those with a criminal record.
 - The assessment should consider whether the Secretary's Disqualifying List is protecting patients or unnecessarily limiting the pool of qualified workforce applicants, particularly among peer counselors with lived experience.
 - The assessment should examine possible negative implications and barriers to employment caused by the Secretary's Disqualifying List, and should consider if DSHS should transition to an individual review system, similar to that used by DOH, and what barriers such a transition would produce.
 - The assessment should consider and address of the role of stigma of a criminal record, in addition to risk assessment.
- **Rationale:** Stakeholders repeatedly wished to know more about the DSHS Secretary's Disqualifying List of Crimes & Negative Actions. While DOH, which licenses most behavioral health professions, conducts an individual review process (without a disqualifying list), workers whose criminal and/or substance use disorder background did not preclude them from licensure may be prohibited from gaining employment at a DSHS-licensed facility, due to the Secretary's Disqualifying List.
 - *Note:* approximately 1 in 3 adults in the U.S. have a criminal record, indicating that hiring individuals with a criminal record is, in some cases, a business necessity, particularly in sectors with high turnover and low pay. About 95% of offenses leading to a criminal record are for non-violent crimes, and some criminal records remain visible for many years. The risks to patients associated with hiring individuals who have a criminal record may be overstated.

Proposal 5.2: Anticipate possible increase in behavioral health workers in emergency services/first responder roles.

- **Policy Action:** Identify ways to expand behavioral health workforce in Washington to address potential increase in need for workers as behavioral health workers are brought in to fill reconfigured emergency services/first responder departments.
- **Rationale:** With possible increases to the role of behavioral health workers in emergency services and first responder positions, the existing workforce shortage of behavioral health workers in Washington will be further exacerbated.

Proposal 5.3: Evaluate Certificate of Restoration of Opportunity (CROP) and consider updates to the program or ways to expand community awareness of its benefits.

- **Policy Action:** Convene a workgroup to evaluate CROP, including identification of how it is currently used in Washington, who has benefited from the program, and what changes are necessary to expand access and participation statewide.
- **Rationale:** Since its implementation in 2017, applications to CROP have been extremely low when compared with individuals who may be eligible for the program. Carve-outs introduced into the law prior to passage may have reduced the effectiveness of CROP's intended purpose. For example, CROP legislation as passed allows discretion to disregard an applicant's CROP when making some decisions, such as licensing or employment decisions. A workgroup could consider what changes to CROP are feasible and could help make this program more widely available, accessible, and acceptable for legislative action.

Proposal 5.4: Expand community awareness and engagement with CROP and its potential benefits.

- **Policy Action:** In partnership with the relevant entities, develop an educational pilot program for incarcerated individuals approaching release, which provides information and resources for participating in the CROP process and potential career opportunities in behavioral health, such as peer counseling. Pilot could focus on participants with non-violent, SUD-related offenses, who are interested in entering the behavioral health workforce.
- **Rationale:** As stated above, CROP applications since its 2017 introduction have been significantly low in comparison to the population of potentially eligible participants. Stakeholders and experts on CROP have speculated that this may be due to a lack of education and awareness among potentially eligible participants. Direct engagement with soon-to-be released incarcerated individuals could provide an opportunity to expand awareness as individuals prepare to transition to life post-incarceration, and could also provide a unique opportunity to engage potential behavioral health workers with valuable lived experience in both justice system involvement and substance use disorder.

Proposal 5.5: Convene leadership of state agencies with jurisdiction to reduce barriers to behavioral health employment related to criminal background checks.

- **Policy Action:** Create a taskforce comprised of representatives from the office of the Attorney General, DOH, DSHS, office of the Governor, and others to examine impacts and changes proposed to the use of criminal background checks in employment in behavioral health settings, with the goal of reducing barriers to developing and retaining a robust behavioral health workforce.
- **Rationale:** Existing background check requirements are preventing workforce development in behavioral health. Taking into account new scientific evidence on relevant risk, a taskforce with the necessary jurisdictional oversight could examine legal requirements of and risks posed by existing background check policies and propose changes to the RCW and WAC.